

Introduced by Senator Watson

(Principal coauthor: Assembly Member Murray)

(Coauthors: Senators Lee and Rosenthal)

(Coauthor: Assembly Member Washington)

February 19, 1997

An act to amend Section 65302 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 451, as introduced, Watson. Land use: general plans: environmental equity.

Existing law requires each planning agency and the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and land outside its boundaries which, in the judgement of the planning agency, relates to its planning. Existing law requires the general plan to contain, among other elements, a land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land.

This bill would additionally require the land use element to include policies and procedures addressing equitable distribution of locally undesirable land uses, and the fair distribution of burdens within the area, and that avoid

disproportionate impacts against low-income communities as well as racial and ethnic minorities. The bill also would require the general plan to include procedures for defining and identifying locally undesirable land uses, which may include facilities involved in the disposal, storage, or transfer of solid, hazardous, or liquid wastes. These additional requirements with respect to the general plan would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65302 of the Government Code
2 is amended to read:

3 65302. The general plan shall consist of a statement of
4 development policies and shall include a diagram or
5 diagrams and text setting forth objectives, principles,
6 standards, and plan proposals. The plan shall include the
7 following elements:

8 (a) A land use element ~~which designates~~ *that does all*
9 *of the following:*

10 (1) *Designates* the proposed general distribution and
11 general location and extent of the uses of the land for
12 housing, business, industry, open space, including
13 agriculture, natural resources, recreation, and enjoyment
14 of scenic beauty, education, public buildings and grounds,
15 solid and liquid waste disposal facilities, and other

categories of public and private uses of land. ~~The land use element shall include~~

(2) *Includes* a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan.

(3) *Includes policies and procedures addressing equitable distribution of locally undesirable land uses, and the fair distribution of burdens within the area, and that avoid disproportionate impacts against low-income communities as well as racial and ethnic minorities.*

(4) *Includes procedures for defining and identifying locally undesirable land uses, which, for the purposes of this section, may include, but are limited to, facilities involved in the disposal, storage, or transfer of solid, hazardous, or liquid wastes.* ~~The land use element shall identify~~

(5) *Identifies* areas covered by the plan ~~which~~ that are subject to flooding and shall be reviewed annually with respect to those areas. ~~The land use element shall designate~~

(6) *Designates*, in a land use category that provides for timber production, those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water

1 agency and with all district and city agencies which have
2 developed, served, controlled or conserved water for any
3 purpose for the county or city for which the plan is
4 prepared. Coordination shall include the discussion and
5 evaluation of any water supply and demand information
6 described in Section 65352.5, if that information has been
7 submitted by the water agency to the city or county. The
8 conservation element may also cover:

9 (1) The reclamation of land and waters.

10 (2) Prevention and control of the pollution of streams
11 and other waters.

12 (3) Regulation of the use of land in stream channels
13 and other areas required for the accomplishment of the
14 conservation plan.

15 (4) Prevention, control, and correction of the erosion
16 of soils, beaches, and shores.

17 (5) Protection of watersheds.

18 (6) The location, quantity and quality of the rock, sand
19 and gravel resources.

20 (7) Flood control.

21 The conservation element shall be prepared and
22 adopted no later than December 31, 1973.

23 (e) An open-space element as provided in Article 10.5
24 (commencing with Section 65560).

25 (f) A noise element which shall identify and appraise
26 noise problems in the community. The noise element
27 shall recognize the guidelines established by the Office of
28 Noise Control in the State Department of Health Services
29 and shall analyze and quantify, to the extent practicable,
30 as determined by the legislative body, current and
31 projected noise levels for all of the following sources:

32 (1) Highways and freeways.

33 (2) Primary arterials and major local streets.

34 (3) Passenger and freight on-line railroad operations
35 and ground rapid transit systems.

36 (4) Commercial, general aviation, heliport, helistop,
37 and military airport operations, aircraft overflights, jet
38 engine test stands, and all other ground facilities and
39 maintenance functions related to airport operation.

1 (5) Local industrial plants, including, but not limited
2 to, railroad classification yards.

3 (6) Other ground stationary noise sources identified
4 by local agencies as contributing to the community noise
5 environment.

6 Noise contours shall be shown for all of these sources
7 and stated in terms of community noise equivalent level
8 (CNEL) or day-night average level (L_{dn}). The noise
9 contours shall be prepared on the basis of noise
10 monitoring or following generally accepted noise
11 modeling techniques for the various sources identified in
12 paragraphs (1) to (6), inclusive.

13 The noise contours shall be used as a guide for
14 establishing a pattern of land uses in the land use element
15 that minimizes the exposure of community residents to
16 excessive noise.

17 The noise element shall include implementation
18 measures and possible solutions that address existing and
19 foreseeable noise problems, if any. The adopted noise
20 element shall serve as a guideline for compliance with the
21 state's noise insulation standards.

22 (g) A safety element for the protection of the
23 community from any unreasonable risks associated with
24 the effects of seismically induced surface rupture, ground
25 shaking, ground failure, tsunami, seiche, and dam failure;
26 slope instability leading to mudslides and landslides;
27 subsidence, liquefaction and other seismic hazards
28 identified pursuant to Chapter 7.8 (commencing with
29 Section 2690) of the Public Resources Code, and other
30 geologic hazards known to the legislative body; flooding;
31 and wild land and urban fires. The safety element shall
32 include mapping of known seismic and other geologic
33 hazards. It shall also address evacuation routes, peakload
34 water supply requirements, and minimum road widths
35 and clearances around structures, as those items relate to
36 identified fire and geologic hazards. Prior to the periodic
37 review of its general plan and prior to preparing or
38 revising its safety element, each city and county shall
39 consult the Division of Mines and Geology of the
40 Department of Conservation and the Office of

1 Emergency Services for the purpose of including
2 information known by and available to the department
3 and the office required by this subdivision.

4 To the extent that a county's safety element is
5 sufficiently detailed and contains appropriate policies
6 and programs for adoption by a city, a city may adopt that
7 portion of the county's safety element that pertains to the
8 city's planning area in satisfaction of the requirement
9 imposed by this subdivision.

10 At least 45 days prior to adoption or amendment of the
11 safety element, each county and city shall submit to the
12 Division of Mines and Geology of the Department of
13 Conservation one copy of a draft of the safety element or
14 amendment and any technical studies used for
15 developing the safety element. The division may review
16 drafts submitted to it to determine whether they
17 incorporate known seismic and other geologic hazard
18 information, and report its findings to the planning
19 agency within 30 days of receipt of the draft of the safety
20 element or amendment pursuant to this subdivision. The
21 legislative body shall consider the division's findings prior
22 to final adoption of the safety element or amendment
23 unless the division's findings are not available within the
24 above prescribed time limits or unless the division has
25 indicated to the city or county that the division will not
26 review the safety element. If the division's findings are
27 not available within those prescribed time limits, the
28 legislative body may take the division's findings into
29 consideration at the time it considers future amendments
30 to the safety element. Each county and city shall provide
31 the division with a copy of its adopted safety element or
32 amendments. The division may review adopted safety
33 elements or amendments and report its findings. All
34 findings made by the division shall be advisory to the
35 planning agency and legislative body.

36 SEC. 2. Notwithstanding Section 17610 of the
37 Government Code, if the Commission on State Mandates
38 determines that this act contains costs mandated by the
39 state, reimbursement to local agencies and school
40 districts for those costs shall be made pursuant to Part 7



1 (commencing with Section 17500) of Division 4 of Title
2 2 of the Government Code. If the statewide cost of the
3 claim for reimbursement does not exceed one million
4 dollars (\$1,000,000), reimbursement shall be made from
5 the State Mandates Claims Fund.

6 Notwithstanding Section 17580 of the Government
7 Code, unless otherwise specified, the provisions of this act
8 shall become operative on the same date that the act
9 takes effect pursuant to the California Constitution.

O

